

PETITION FOR ZONING VARIANCE
FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Sarandos (Sam) Macris and Eva Macris, legal owners of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 238.2 to permit a rear yard setback of 0 feet in lieu of the required 30 feet, and Section 409.2 to allow 13 parking spaces in lieu of the required 25 spaces.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

that the constraints imposed by the setback requirements severely limit the feasibility of constructing a commercial building on petitioner's parcel of property which would allow petitioner to use said parcel of property for retail purposes.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract purchaser
Address 1742 E. Joppa Road
Baltimore, Maryland 21234
Petitioner's Attorney
Address 305 W. Chesapeake Avenue
Towson, Maryland 21204
Protestant's Attorney
Address 305 W. Chesapeake Avenue
Towson, Maryland 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 28th day

of November 1972, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12th day of February 1973 at 9:45 o'clock

at A.M.
Zoning Commissioner of Baltimore County
(over)

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Sarandos (Sam) Macris and legal owners of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing Under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an access drive within a parcel of property zoned D.R. 5.5

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser
Address 1742 E. Joppa Road
Baltimore, Maryland 21234
Petitioner's Attorney
Address 305 W. Chesapeake Avenue
Towson, Maryland 21204
Protestant's Attorney
Address 305 W. Chesapeake Avenue
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ORDERED By the Zoning Commissioner of Baltimore County, this 28th day of November 1972, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12th day of February 1973 at 9:45 o'clock A.M.

Zoning Commissioner of Baltimore County
(over)

RE: PETITION FOR VARIANCES : BEFORE THE ZONING COMMISSIONER
PETITION FOR SPECIAL HEARING :
NW corner of Joppa Rd. and :
Lackawanna Ave., 9th District : OF BALTIMORE COUNTY
SARANDOS (SAM) MACRIS, et ux, : Case No. 80-150-ASPH
Petitioners :

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 21st day of January, 1980, a copy of the foregoing Order was mailed to Julius W. Lichter, Esquire, Steinberg, Lichter, Coleman & Rogers, 305 W. Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners.

John W. Hession, III

RE: PETITIONS FOR VARIANCES AND :
SPECIAL HEARING :
NW corner of Joppa Road and Lacka- : ZONING COMMISSIONER
wanna Avenue - 9th Election District :
Sarandos Macris, et ux - Petitioners : OF
NO. 80-150-ASPH (Item No. 69) : BALTIMORE COUNTY

This matter comes before the Zoning Commissioner as the result of a Petition for Special Hearing requesting approval of an access drive through D.R. 5.5 zoned property to serve a B.R. Zone permitted use and a Petition for Variances to permit a rear yard setback of zero feet in lieu of the required thirty feet and thirteen parking spaces in lieu of the required twenty-five spaces.

On the east, west, and south sides of the subject site, the properties are zoned B.R. On the north side of the subject site, the property is zoned D.R. 5.5. The D.R. 5.5 Zone line passes through the subject site in order to provide 0.191 of an acre for the B.R. uses and to devote 0.121 of an acre to the D.R. 5.5 uses. Both the testimony and the site plan prepared by Hudkins Associates, Inc., dated September 7, 1979, and marked Petitioners' Exhibit 1, indicate two existing dwellings would be razed to accommodate the proposed improvements for a "carry-out" food business. The testimony further indicates that the access point for this commercial enterprise would be on Lackawanna Avenue through that portion of the subject site lying within the D.R. 5.5 zoned property with the parking spaces indicated as being located within the B.R. zoned property.

In an attempt to arrive at a conclusion with respect to the access drive through the D.R. 5.5 zoned property, as well as the parking area bordering the D.R. 5.5 Zone with the actual spaces being laid out in the B.R. Zone, there are several sections of the Baltimore County Zoning Regulations which become pertinent and are set forth as follows:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. W. E. Hammond
Zoning Commissioner
TO: John D. Seifert, Director
FROM: Office of Planning and Zoning
SUBJECT: Petition No. 80-150-ASPH Item 69

Petition for Variance for rear yard setback and parking and Special Hearing for an access drive Northwest corner of Joppa Road and Lackawanna Avenue Petitioner - Sarandos (Sam) Macris, et ux

9th DISTRICT

HEARING: Tuesday, February 12, 1980 (9:45A.M.)

If granted, it is requested that the petitioner be required to provide a detailed landscaping plan and obtain approval from the Division of Current Planning and Development.

John D. Seifert, Director
Office of Planning and Zoning

JDS:JGH:scb

Section 1B01.1.B.1.a.1 - "A residential transition area is any D.R.1, D.R.2, D.R.3.5, D.R.5.5, or D.R.10.5 zone or part thereof which lies (a) within 300 feet of any point on a dwelling other than an apartment building, or (b) within 250 feet of any point lying within a vacant lot of record which is itself wholly or partially classified as D.R. and which is two acres or less in area."

Section 1B01.1.B.1.a.2 - "A residential transition use is any one of the uses listed as such in the following table and hereby classified as set forth therein;" (table referred to incorporated herein as if fully set forth)

Section 1B01.1.B.1.b - "Restrictions in Residential Transition Areas. In any residential transition area situated as described in the following table, only residential transition uses shall be permitted, and only as indicated;" (table referred to incorporated herein as if fully set forth)

While it is true that the transition area, as defined above, does not affect the portion of the Petitioners' property lying within the B.R. Zone, it does affect that portion of the Petitioners' property lying within the D.R. 5.5 Zone. Therefore, both the uses allowed in the "transition area" (see tables for Sections 1B01.1.B.1.a.2 and 1B01.1.B.1.b) and the requirements for "parking spaces" (see Section 409.2) becomes germane to the Petition for Special Hearing to approve "an access drive within a parcel of property zoned D.R. 5.5" and that portion of the Petition for Variances "to allow thirteen parking spaces in lieu of the required twenty-five spaces".

In referring to the aforementioned tables, with application to the access, the three hundred square foot requirement, which includes access aisles, for a parking space, and the site plan referred to as Petitioners' Exhibit 1, it is apparent that neither access to a commercial use nor parking spaces required therefore come within the purview of those above referred to tables of uses within the "transition area". Therefore, in view of this conclusion, an access drive through D.R. 5.5 zoned property and the variance to allow thirteen parking spaces in lieu of the required twenty-five spaces (the maximum provided on the site plan being ten that comply with the three hundred square foot requirement) should not be granted.

The Petition for Variances also includes a request to permit a rear yard setback of zero feet in lieu of the required thirty feet as set forth in Section 238.2 of the Zoning Regulations.

After reviewing the testimony and exhibits offered, the nearest improvement to be affected by the requested rear yard variance would be on the west side of the subject site which contains a one-story brick and frame structure containing an antique store and militaria shop. The nearest point of the antique store, to what is depicted on the site plan (Petitioners' Exhibit 1) as the rear lot line of the subject site, is eight feet. There was no protest developed for this requested variance, either by those Protestants in attendance or by the owners or operators of the antique store, except insofar as the protest relates to the proposed "carry-out" food business generating an increase in traffic on both Joppa Road and Lackawanna Avenue.

Although the denial of the access through D.R. zoned property and the reduction of the required parking spaces reflects upon the Petitioners' proposed use in accordance with the site plan filed, a zero foot rear yard setback would answer the practical difficulty or unreasonable hardship experienced by the Petitioners in the utilization of this B.R. zoned property and would not be of sufficient or substantial injury to the public health, safety, and general welfare of the community.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 14th day of June, 1980, that the variance to permit a rear yard setback of zero feet in lieu of the required thirty feet should be and the same is GRANTED, from and after the date of this Order, subject, however, to the approval of a site plan by the Department of Public Works and the Office of Planning and Zoning.

It is FURTHER ORDERED that the variance to allow thirteen parking spaces in lieu of the required twenty-five spaces be and the same is hereby DENIED.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William Hammond
Zoning Commissioner
FROM: John W. Hession, III
People's Counsel
SUBJECT: Sarandos A. Macris - #80-150-ASPH (Item 69)

This case is presently being considered by you after hearing and I understand that the issue of whether one may use residentially zoned property for an access route to commercial property is an element in the case. I have photostated and enclose three pages from "American Law of Zoning," by Anderson, Section 9.27, which treats this question and I have also photostated and enclose the opinion in Liembach Construction Company v. City of Baltimore, 257 Md. 435, 264 A.2d 109 (photostat from Atlantic), which is apparently the definitive Maryland case.

John W. Hession, III
John W. Hession, III
People's Counsel

Enclosures

cc: Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

JWH:sh

§ 9.26

AMERICAN LAW OF ZONING

even though they have some residential characteristics. A boardinghouse, for example, may be excluded. Hotels are commercial, rather than residential, establishments, and may be excluded. Where lodging houses and hotels are permitted in a residential district, a property owner is not in violation if he operates a guesthouse where groups stay for extended periods of time or under continuous arrangements.

The power to exclude commercial uses from residential zones includes the authority to control the location of such uses within buildings in such zones. Thus, an ordinance is valid which confines certain office uses to the ground floor of multiple dwellings.

The question whether an exclusion of commercial uses prohibits the use of residential land to provide ingress and egress for a commercial establishment, and the issues relating to accessory uses, will be considered in subsequent sections.

§ 9.27.—Exclusion of access routes.

An ordinance excluding commercial uses from a residential district excludes the maintenance of driveways which provide ingress and egress from such uses. This problem frequently

43. Baldour v Long Beach, 279 NY 167, 18 NE2d 18, 124 ALR 1063 (1938), reh den 279 NY 794, 19 NE2d 503, 84 L Ed 431, 60 S Ct 77.

44. Goodhue v Pennell, 164 App Div 821, 150 NYS 435 (1914).

45. Selveti v Building Inspector of Beverly, 156 Mass 720, 249 NE2d 744 (1959).

46. People v 960 Park Ave. Corp., 298 App Div 493, 145 NYS2d 190 (1955), aff'd 1 NY2d 771, 153 NYS2d 46, 136 NE2d 585.

In an action by plaintiff-owners of an apartment hotel seeking a declaratory judgment that a zoning ordinance was unconstitutional where the effect of such ordinance would be to prevent said apartment hotel from maintaining service stores and offices such as are permitted in hotels of similar size in neighboring locations.

47. § 9.27, infra.

48. § 9.28, infra.

49. Yonkers v Rentways, Inc. 304 NY 493, 109 NE2d 597 (1952).

The construction of a driveway at the corner of the lot to be used as a daily entrance to the commercial property would constitute a

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**PETITION FOR VARIANCE AND
SPECIAL HEARING
9th DISTRICT**

ZONING: Petition for Variance of rear yard setback and parking and Special Hearing for an access drive

LOCATION: Northwest corner of Joppa Road and Lackawanna Avenue

DATE & TIME: Tuesday, February 12, 1980 at 9:45 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variances to permit a rear yard setback of 0 feet in lieu of the required 30 feet and to allow 13 parking spaces in lieu of the required 25 spaces and Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an access drive within a parcel of property zoned D.R. 5.5

The Zoning Regulation to be excepted as follows:
Section 238.2—side and rear yard setbacks

Section 409.2—Parking space

All that parcel of land in the Ninth District of Baltimore County

Beginning for the same at a point on the west side of Lackawanna Ave.

(40 feet wide) said point being distant from the point formed by the intersection of the center of Lackawanna Avenue with the center of Joppa Road the two following courses and distances viz: (1) North

20 degrees 55 minutes 45 seconds West 61 feet and (2) South 69 degrees 04 minutes 15 seconds West 152 feet

thence North 20 degrees 55 minutes 45 seconds West 152 feet

thence South 69 degrees 04 minutes 15 seconds West 54.03 feet thence

South 26 degrees 22 minutes 45 seconds East 179 feet thence North 68 degrees 30 minutes 20 seconds East

42.17 feet thence North 23 degrees 46 minutes 17 seconds East 35.53 feet to the place of beginning.

Containing 0.31 Acres of land more or less.

Being the property of Sarandos (Sam) M. ris, et ux, as shown on plat plan filed with the Zoning Department

Hearing Date: Tuesday, February 12, 1980 at 9:45 A.M.

Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

By Order of:

WILLIAM E. HAMMOND,
Zoning Commissioner
of Baltimore County

Jan. 24

**DUPLICATE
CERTIFICATE OF PUBLICATION**

TOWSON, MD., _____, 19__

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of _____ successive weeks before the _____ day of _____, 19__, the first publication appearing on the _____ day of _____, 19__.

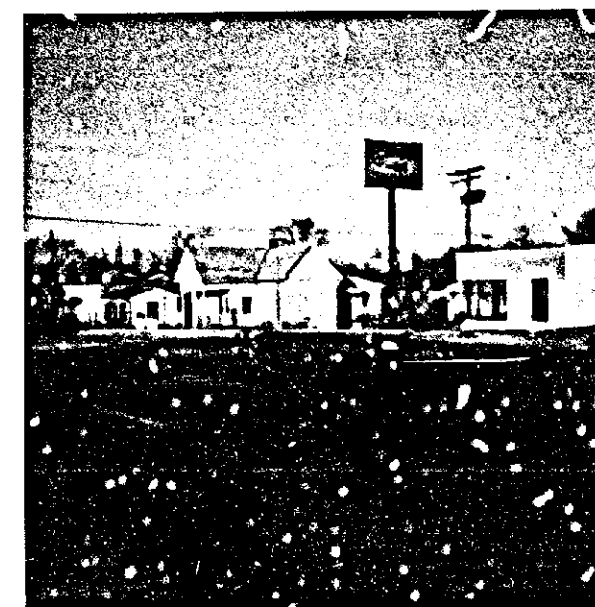
THE JEFFERSONIAN,

L. Frank Smith
Manager.

Cost of Advertisement, \$ 28.00



Pt 20 RC



Pt 20 A



Pt 20 B



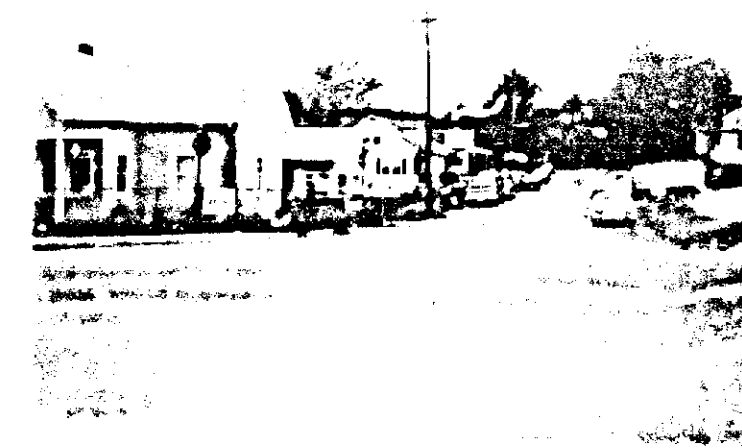
Pt 20 C

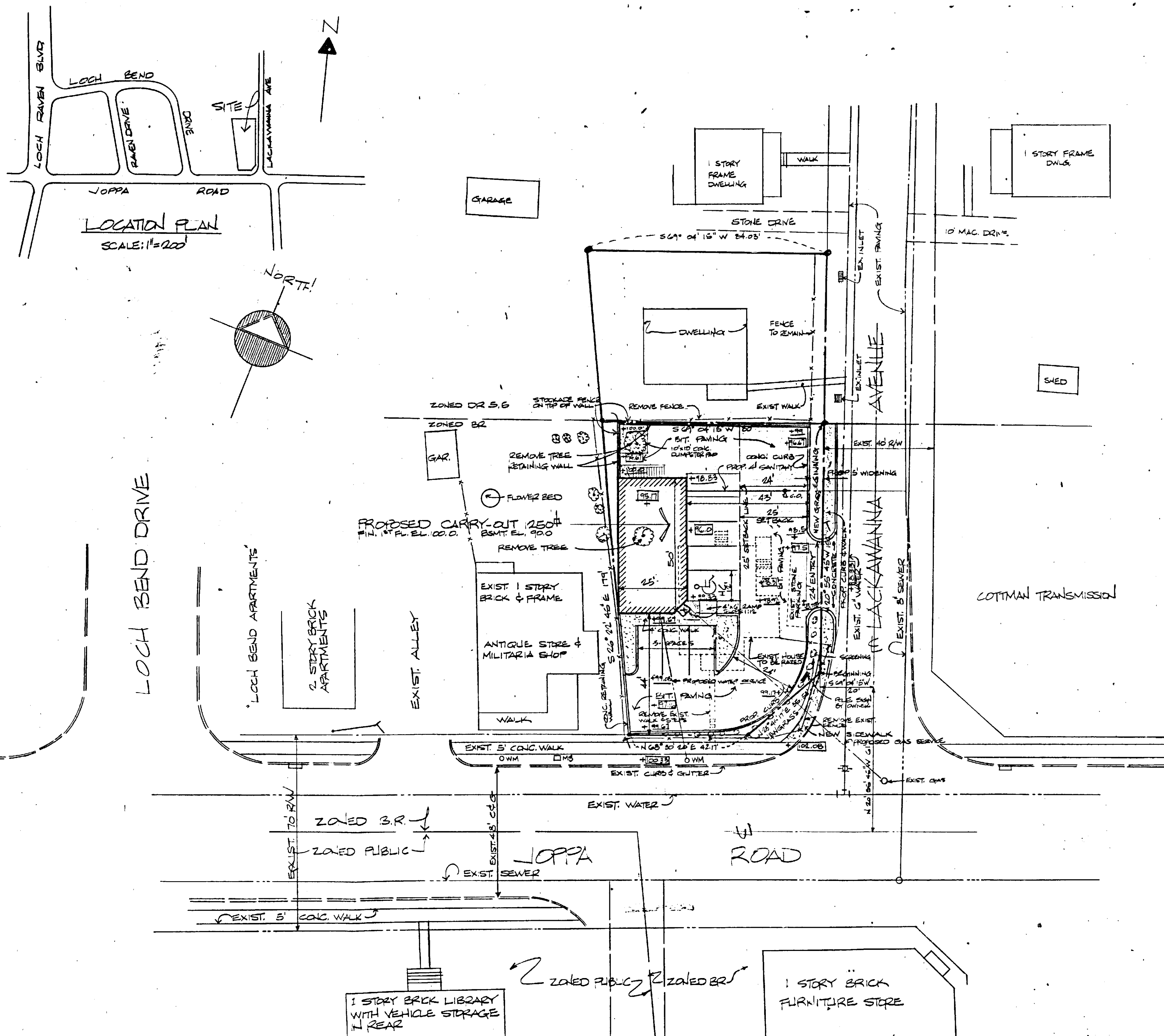


Pt 20 D



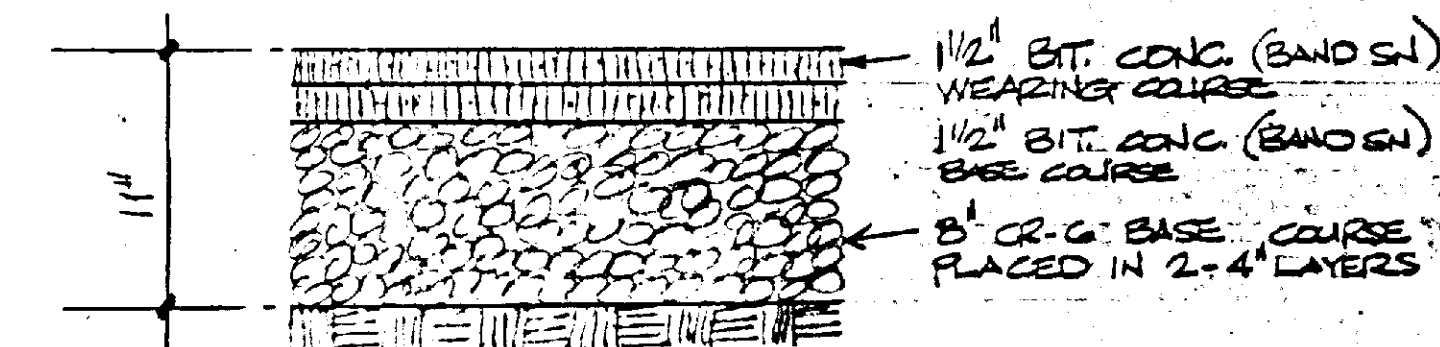
Pt 20 E



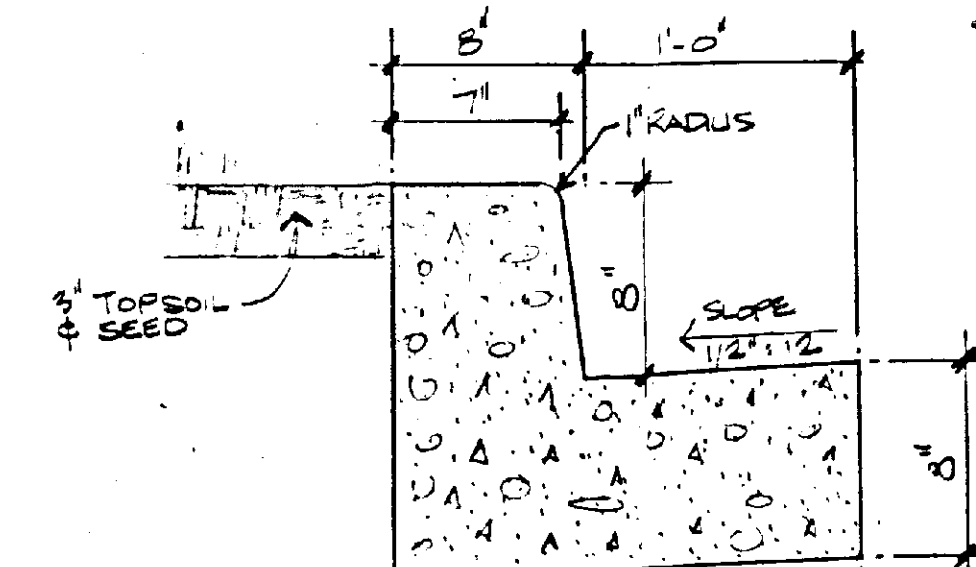


SITE NOTES

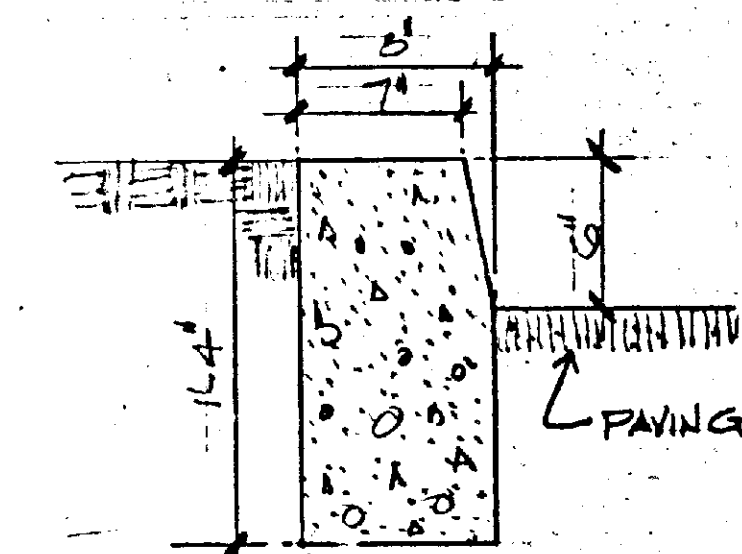
1. TOTAL AREA OF SITE = 0.31 ACRE ±
2. AREA ZONED B.R. = 0.19 ACRE ± EX. USE RESIDENTIAL, PROPOSED USE CARRY OUT AND OFF STREET PARKING
3. AREA ZONED D.R. S.B. = 0.12 ACRE ± EX. USE RESIDENTIAL, PROPOSED USE RESIDENTIAL
4. OFF STREET PARKING NO. OF SPACES REQUIRED: $1250 \text{ SF} + 200 = 6.5 \text{ OR } 7$
TOTAL PROVIDED = 8 SPACES
5. PROPOSED PARKING LOT TO BE PAVED WITH SPACES 9'x18'
6. OWNER: SARANDOS & EVA MACRIS - 1742 E. JOPPA RD. - BALTO, MD. 21234
7. PROPERTY LOCATED IN 9TH ELECTION DISTRICT - BALTO. CO. MD.
8. ALL SCREENING SHALL BE WHITE PINE (4' MIN. HIGH) 10' O.C. STAGGERED
9. PROVIDE CONCRETE PARKING BUMPERS AT EACH PARKING SPACE.
10. +91.67 DENOTES PROPOSED GRADE
11. = 91.17 DENOTES EXISTING GRADE
12. SEE ZONING CASE NUMBER 80-150-ASPH (ITEM NO. 6A) - JUNE 9, 1980



PAVING DETAIL SCALE: 1/2"=1'-0"



CURB & GUTTER DETAIL SCALE: 1/2"=1'-0"

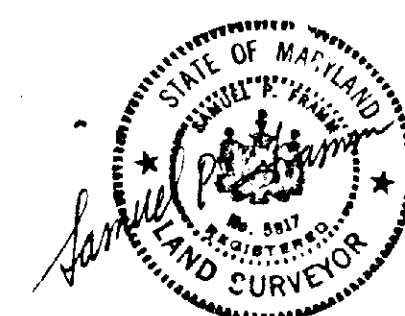


ON SITE CURB DETAIL SCALE: 1/2"=1'-0"

PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY: [Signature]
DATE: 9-2-80
BY: [Signature]
ZONING COMMISSIONER
DATE: 9/2/80
80-150
C-797-80

797-80

THE ITALIAN INN
JOPPA RD. & LACKAWANNA AVE.
BALTIMORE COUNTY, MARYLAND

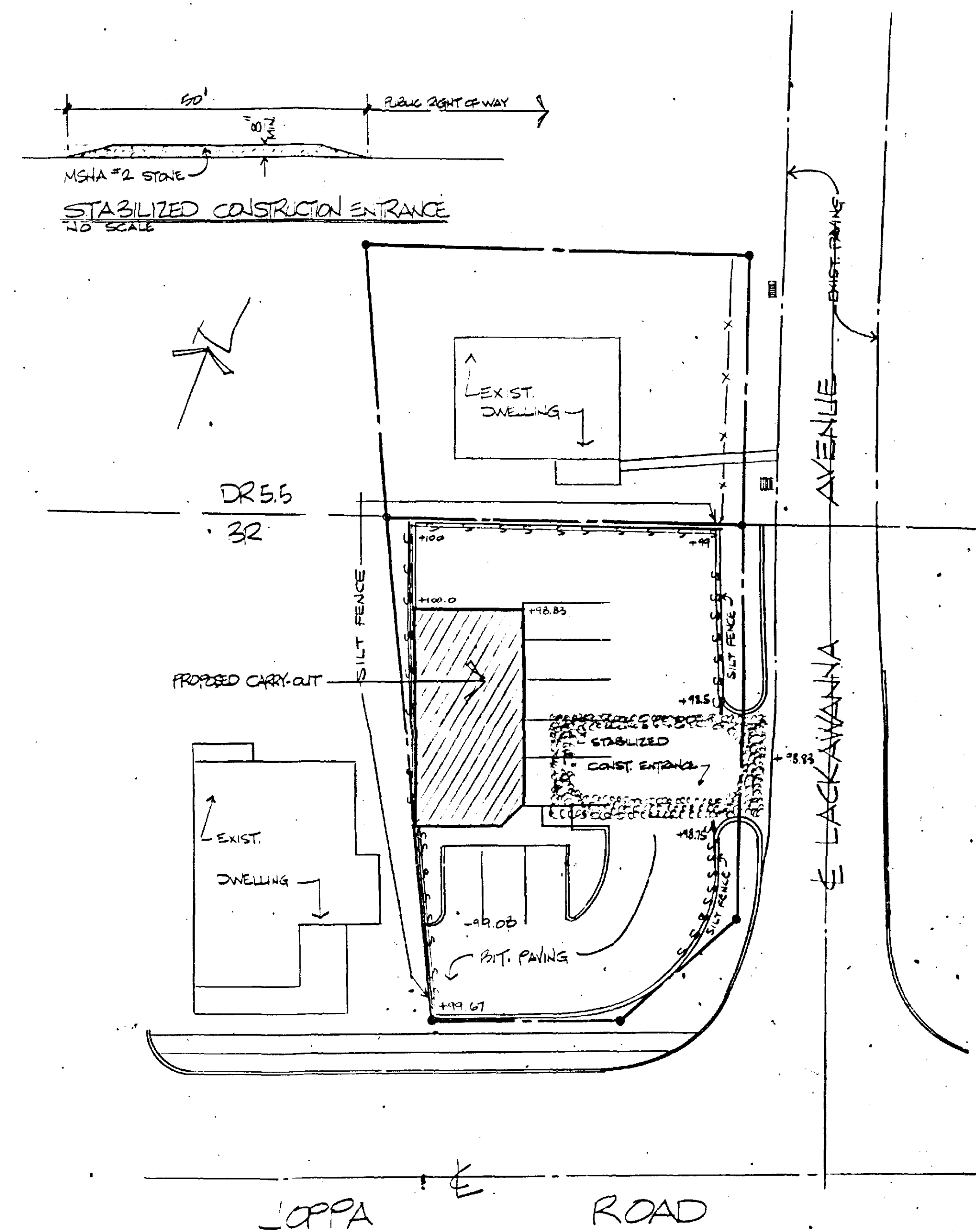
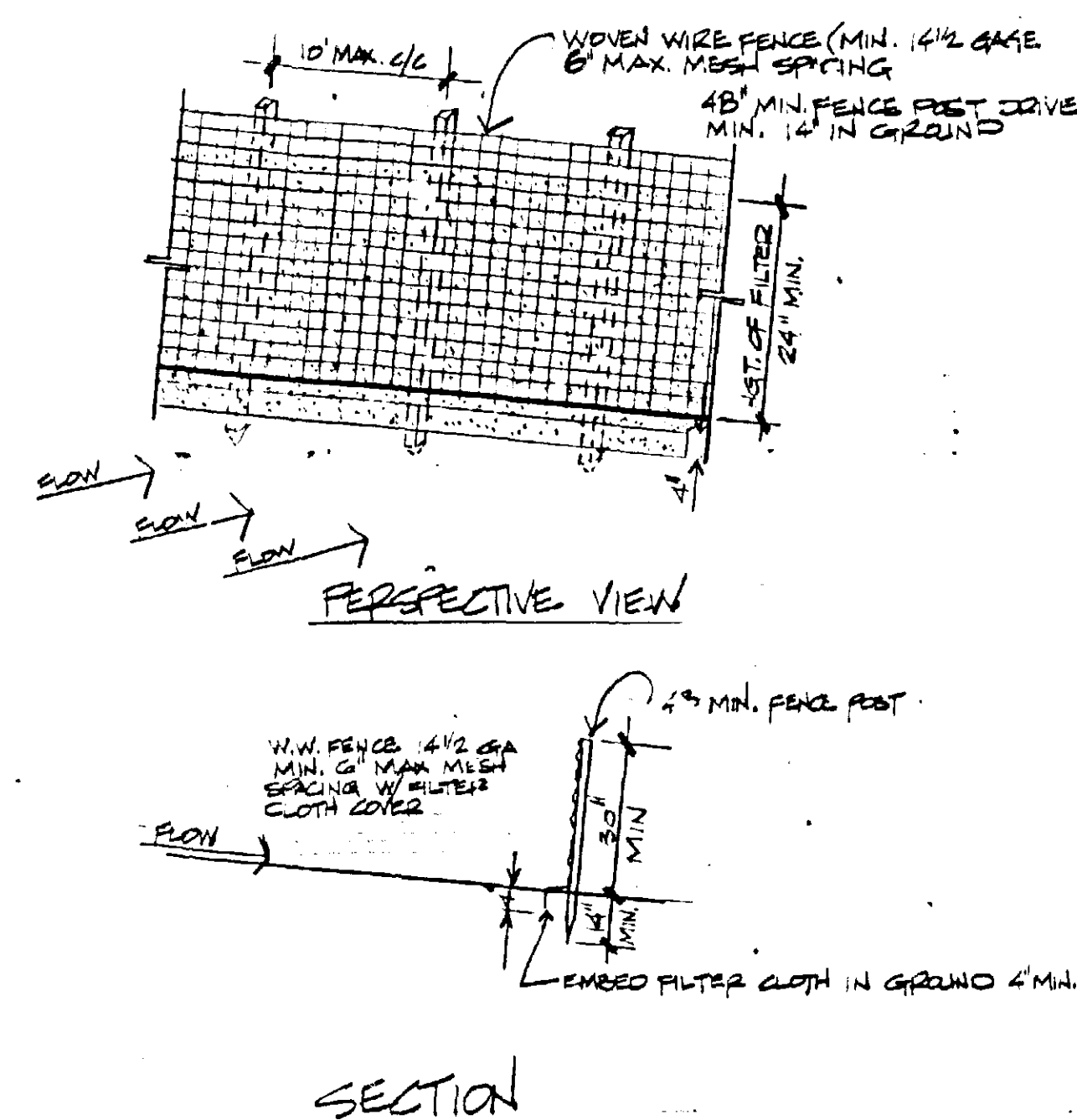
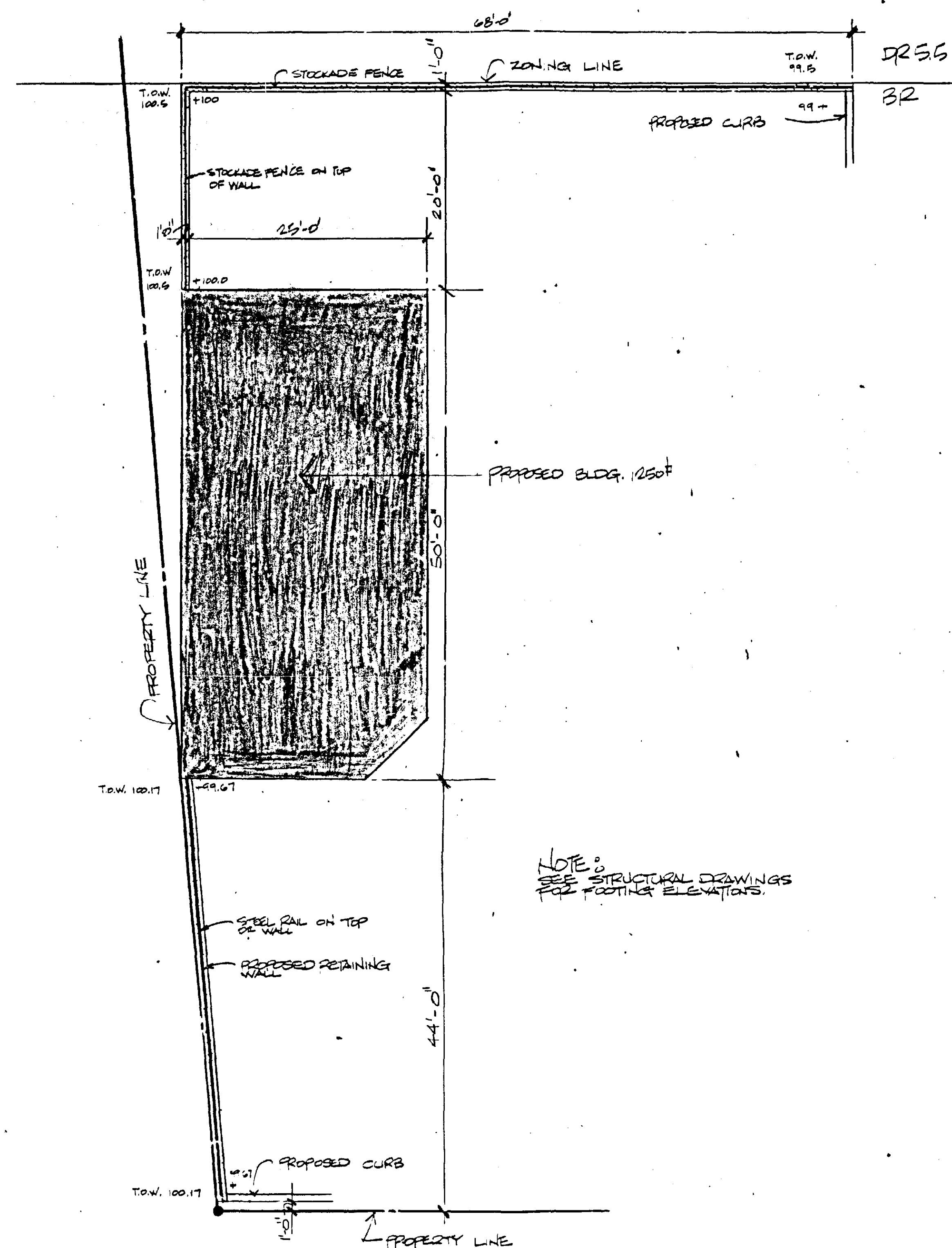


Thos. A. Lloyd CONSTRUCTION COMPANY
BUILDERS.....CONTRACTORS.....DESIGNERS
617 STEMMERS RUN ROAD
ESSEX, MARYLAND 21221.....682-5252


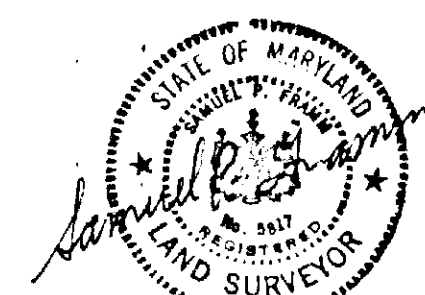
SITE PLAN

scale: 1"=20'
drawn by: DES
checked by: TAL
date:

sheet
SP-1



THE ITALIAN INN
107 RD. E LACKAWANNA AVE.
BALTIMORE COUNTY, MARYLAND



Thos. A. Lloyd CONSTRUCTION COMPANY
BUILDERS.....CONTRACTORS.....DESIGNERS
617 STEMMERS RUN ROAD
ESSEX, MARYLAND 21221.....682-5252

<p align="center">SEGMENT FLAN RETAINING WALL PLAN!</p>	
<p>scale: NOTED</p> <p>drawn by: CES</p> <p>checked by: DAL</p> <p>date:</p>	<p>sheet</p> <p align="center">SP-2</p>

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the following finding of facts that strict compliance with the Baltimore County Zoning Regulations would result in practical difficulty and unreasonable hardship upon the petitioner(s), the Variance(s) should be had; and it further appearing that by reason of the granting of the Variance(s) requested not adversely affecting the health, safety, and general welfare of the community, the Variance(s) should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for the Variance(s) to permit

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of failure to show practical difficulty and/or unreasonable hardship, the Variance(s) should not be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for the Variance(s) to permit

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the following finding of facts _____

the above Special Hearing for _____
by reason of _____

_____ should be granted.
IT IS ORDERED by the Zoning Commissioner of Baltimore County this _____ day of _____, 196____, that the herein Petition for Special Hearing should be and the same is granted, from and after the date of this order.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of _____

the above Special Hearing should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 196____, that the above Special Hearing be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE



PETITIONER'S
EXHIBIT 5

PETITION AND SITE PLAN

EVALUATION COMMENTS

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

cc: Hudkins Assoc., Inc.
101 Shell Bldg.
200 E. Joppa Rd.
Towson, Md. 21204

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 28th day of November, 1979.

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

Petitioner Sarandos Macris, et ux

Petitioner's Attorney Julius W. Lichter, Esq. Reviewed by *Nicholas B. Commodari*
Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 1, 1980

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

cc: Nicholas B. Commodari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item No. 69
Petitioners-Sarandos Macris, et ux
Variance and Special Hearing
Petitions

Dear Mr. Lichter:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

The subject property, located on the northwest corner of Joppa Road and Lackawanna Avenue in the 9th Election District, is presently improved with dwellings. Adjacent properties to the west, north, and east are improved with a retail store, individual dwellings, along Lackawanna Avenue, and a transmission shop, respectively. Any future plans submitted to this office must reflect this latter use.

This property was the subject of a previous zoning hearing (Case No. 76-174-ASPH) in which a similar request for a setback Variance and a Special Hearing for off-street parking in a residential zone were denied. While your clients' present proposal is similar to the previous one, all parking for the proposed building will be located within the D.R. zoned portion of the site. However, the Special Hearing is required in order to allow the access drive to be constructed through the residentially zoned (D.R. 5.5) portion in the rear. Particular attention should be afforded to the comments of the Department of Permits and Licenses concerning the type of construction of the proposed building.

Item No. 69
Variance and Special Hearing
Petitions
February 1, 1980

Enclosed are all comments submitted from the Committee to this office. The remaining members felt that no comment was warranted. This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30 nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:chk

Enclosures

cc: Hudkins Assoc., Inc.
101 Shell Bldg.
200 E. Joppa Rd.
Towson, Md. 21204



BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

November 28, 1979

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #69 (1979-1980)
Property Owner: Sarandos (Sam) and Eva Macris
N/W cor. Joppa Rd. & Lackawanna Ave.
Existing Zoning: B.R. & DR 5.5
Proposed Zoning: Variance to permit a rear setback of 0' in lieu of the required 30' and to permit 13 parking spaces in lieu of the required 25 spaces.
Special Hearing to allow an access drive within a parcel of property zoned DR 5.5 that is contiguous with a parcel of property zoned B.R. which is the location of the petitioner's business.
Acres: 0.31 District: 9th

Dear Mr. Hammond:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

The comments which are supplied in connection with the Zoning Advisory Committee review of this property for Item 127A (1973-1974) and Item 131 (1975-1976) remain valid and applicable and are referred to for your consideration.

Very truly yours,

Ellsworth N. Diver
ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss

cc: J. Wimbley
J. Somers
W. Munchel

N-NE Key Sheet
37 N. 11 Pos. Sheet
NE 10 C Topo
70 Tax Map

Attachments

Baltimore County Department of Public Works
County Office Building
TOWSON, MARYLAND 21204

February 17, 1975

Bureau of Engineering
ELLSWORTH N. DIVER, P.E., Chief

Mr. B. Sarandos Macris
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item 131 (1975-1976)

Property Owner: Sarandos (Sam) and Eva Macris
N/W cor. Joppa Rd. & Lackawanna Ave.
Existing Zoning: B.R. & DR 5.5
Proposed Zoning: Variance from 30' rear yard setback and no. of parking spaces. Special Hearing for off-street parking in a DR 5.5 zone.
No. of Acres: 0.31 District: 9th

Dear Mr. Sarandos:

The following comments are furnished in regard to the plan submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

The comments which are supplied in connection with the Zoning Advisory Committee review of this property for Item 127A (1973-1974) and Item 131 (1975-1976) remain valid and applicable and are referred to for your consideration.

The petitioner shall be responsible for the cost of supplying any water main along Joppa Road and Lackawanna Avenue no longer required to serve the building.

It is recommended that additional fire hydrant protection may be required in the vicinity.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 131 (1975-1976).

Ellsworth N. Diver
ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss

cc: W. Munchel

N-NE Key Sheet
37 N. 11 Pos. Sheet
NE 10 C Topo
70 Tax Map

Baltimore County, Maryland
Department Of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204
February 15, 1974

Bureau of Engineering
ELLENWORTH H. DIVER, P. E., CHIEF

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #127A (1973-1974)
Property Owner: Pauline & Harry C. Wells
1/2 of Joppa Rd. and the W/2 of Lackawanna Ave.
Existing Zoning: B.R. and D.R. 5.5
Proposed Zoning: Variance to permit a front yard setback of 20' instead of the required 30', a side yard setback on the S/W side of 5' instead of the required 30' and to permit 12 parking spaces instead of the required 27 parking spaces.
No. of Acres: 0.31 District: 9th

Dear Mr. DiNenna:

The following comments are furnished in regard to the plan submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Joppa Road, an existing County road, was recently improved in this vicinity as a 10-foot closed-type roadway area-enclosed on a 70-foot right-of-way as a Federal Aid Project; no further Highway improvements are required.

Lackawanna Avenue, an existing residential street, is planned to be improved in the future as a 30-foot closed-type roadway area-enclosed on a 70-foot right-of-way. Highway improvements, including Highway right-of-way, will be required for any further worthwhile expansion for slopes, will be required in connection with any grading or building permit application.

The entrance locations are subject to approval by the Department of Traffic Engineering and shall be constructed in accordance with Baltimore County Standards.

Setback Comments:

Development of this property through striping, grading and stabilization could result in a drainage problem, causing private and public buildings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Item #127A (1973-1974)
Property Owner: Pauline and Harry C. Wells
Page 2
February 15, 1974

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan which must be revised to also show the existing storm drains, inlets and utility easements.

The Baltimore must provide necessary drainage facilities (temporary or permanent) to prevent any existing nuisances or drainage to adjacent properties, especially to the south and east. Correction of any problem will, as a result, be to improve the drainage and proper installation of drainage facilities, which is the Baltimore responsibility.

Other Comments:

Public water supply and sanitary sewerage are on the subject property. It appears that additional fire hydrant protection will be required in the vicinity.

Very truly yours,
John L. Wimbley
John L. Wimbley
Chief, Bureau of Engineering

REFERENCE:

cc: G. Baker

1477 Key Sheet
37 W. 11th Street
15 W. 12th Street
10 W. 13th Street



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3211

JOHN D. SEYFFERT
DIRECTOR

January 24, 1980

Mr. William Hammond, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #69, Zoning Advisory Committee Meeting, October 2, 1979, are as follows:

Property Owner: Sarandos (Sam) and Eva Macris
Location: NW/C Joppa Road and Lackawanna Avenue
Existing Zoning: B.R. and D.R. 5.5
Proposed Zoning: Variance to permit a rear setback of 0' in lieu of the required 30' and to permit 13 parking spaces in lieu of the required 25 spaces. Special Hearing to allow an access drive within a parcel of property zoned D.R. 5.5 that is contiguous with a parcel of property zoned B.R. which is the location of the petitioner's business.

Acres: 0.31
District: 9th

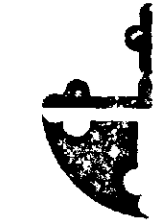
This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

Landscaping should be provided. The driveway along the west property line does not allow sufficient area to provide the screen planting as indicated in note #9.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planner III
Current Planning and Development

PETITIONER'S
EXHIBIT 3



Baltimore County
Department of Traffic Engineering
TOWSON, MARYLAND 21204
(301) 494-3550

STEPHEN E. COLLINS
DIRECTOR

November 21, 1979

Mr. William Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 69 - ZAC - Meeting of October 2, 1979
Property Owner: Sarandos (Sam) & Eva Macris
Location: NW/C Joppa Rd. and Lackawanna Ave.
Existing Zoning: B.R. and D.R. 5.5
Proposed Zoning: Variance to permit a rear setback of 0' in lieu of the required 30' and to permit 13 parking spaces in lieu of the required 25 spaces. Special Hearing to allow an access drive within a parcel of property zoned D.R. 5.5 that is contiguous with a parcel of property zoned B.R. which is the location of the petitioner's business.

Acres: 0.31
District: 9th

Dear Mr. Hammond:

The requested variance to the rear setback and variance to permit access within a D.R. 5.5 zone is not expected to cause any traffic problems.

The requested variance to parking can be expected to cause parking problems in the residential area to the north of the site.

Sincerely yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineering Associate II

MSF/mjm

PETITIONER'S
EXHIBIT 4



BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

November 23, 1979

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #69, Zoning Advisory Committee Meeting of October 2, 1979, are as follows:

Property Owner: Sarandos (Sam) & Eva Macris
Location: NW/C Joppa Rd. & Lackawanna Ave.
Existing Zoning: B.R. & D.R. 5.5
Proposed Zoning: Variance to permit a rear setback of 0' in lieu of the required 30' and to permit 13 parking spaces in lieu of the required 25 spaces. Special Hearing to allow an access drive within a parcel of property zoned D.R. 5.5 that is contiguous with a parcel of property zoned B.R. which is the location of the petitioner's business.

Acres: 0.31
District: 9th

Metropolitan water and sewer is available.

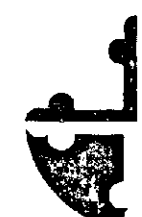
If a food service facility is proposed, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, Baltimore County Department of Health, for review and approval prior to construction.

Very truly yours,

Jan J. Kurest
Jan J. Kurest, Director
BUREAU OF ENVIRONMENTAL SERVICES

LJE/JRE/eth

cc: J. A. Butcher



Baltimore County
Fire Department
TOWSON, MARYLAND 21204
(301) 825-7310

Paul H. Reincke
CHIEF

October 8, 1979

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Mr. William Hammond, Zoning Commissioner
Zoning Advisory Committee

Re: Property Owner Sarandos (Sam) & Eva Macris
Location: NW/C Joppa Rd. & Lackawanna Ave.

Item No. 69 Zoning Agenda: Meeting of 10/2/79

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

(x) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 200 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.

(x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code" 1976 Edition prior to occupancy.

() 6. Site plans are approved as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: *John J. Kelly* 10/11/79 Noted and Approved: *George M. Macris*
Planning Group Fire Prevention Bureau
Special Inspection Division



Baltimore County
Department of Permits and Licenses
TOWSON, MARYLAND 21204
(301) 494-3610

JOHN D. SEYFFERT
DIRECTOR

October 25, 1979

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #69 Zoning Advisory Committee Meeting, October 2, 1979 are as follows:

Property Owner: Sarandos (Sam) & Eva Macris
Location: NW/C Joppa Rd. & Lackawanna Ave.
Existing Zoning: B.R. & D.R. 5.5
Proposed Zoning: Variance to permit a rear setback of 0' in lieu of the required 30' and to permit 13 parking spaces in lieu of the required 25 spaces. Special Hearing to allow an access drive within a parcel of property zoned D.R. 5.5 that is contiguous with a parcel of property zoned B.R. which is the location of the petitioner's business.

Acres: 0.31 District: 9th

The items checked below are applicable:

- X A. Structure shall conform to Baltimore County Building Code (B.O.C.A.) 1970 Edition and the 1971 Supplement, State of Maryland Code for the Handicapped and aged and other applicable codes.
 - X B. A building permit shall be required before construction can begin.
 - X C. Additional permits shall be required.
 - D. Building shall be upgraded to new use - requires alteration permit.
 - E. Three sets of construction drawings will be required to file an application for a building permit.
 - X F. Three sets of construction drawings with a registered Maryland Architect or Engineer's original seal will be required to file an application for a building permit.
 - X G. Wood frame walls are not permitted within 3'0" of a property line. Contact Building Department if distance is between 3'0" and 6'0" of property line.
 - H. Requested setback variance conflicts with the Baltimore County Building Code. See Section _____.
 - I. No Comment.
 - X J. Comment: Fire wall will be required on west wall if it touches the property line. Compliance to Handicapped Code not indicated.
- NOTES: These comments reflect only on the information provided by the drawing submitted to the office of Planning and Zoning and are not to be construed as the full extent of any permit.

Very truly yours,

Charles E. Burnham
Charles E. Burnham, Chief
Plans Review

CEB:rrj

BOARD OF EDUCATION
OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: September 25, 1979

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County Office Building
Towson, Maryland 21204

Z.A.C. Meeting of: October 2, 1979

RE: Item No: 29, 65, 66, 67, 68, 69, 70, 71, 72
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. DiNenna:

All of the above have no adverse effect on student population.

Very truly yours,

W. Nick Petrovich
W. Nick Petrovich,
Field Representative

WNP/bp

JOSEPH H. MCGOWAN, PRESIDENT
T. BARBARO, VICE PRESIDENT
MARCUS M. BOTBARRIS

THOMAS H. BOYER
MRS. LORRAINE F. CHURCH
ROGER S. HATGEN

ALVIN LORECK
MRS. MILTON R. SMITH, JR.
RICHARD W. TRACEY, D.V.M.

ROBERT Y. DUBEL, SUPERINTENDENT

SEP 29 1979

80-988
file

2-7-80
R: Case No. 80-150
ASPH
Sarandos Macris
et ux
2/12/80 9:45AM

Mr. William C. Hammond
Zoning Commissioner
111 West Chesapeake Ave.
Towson, Md 21204

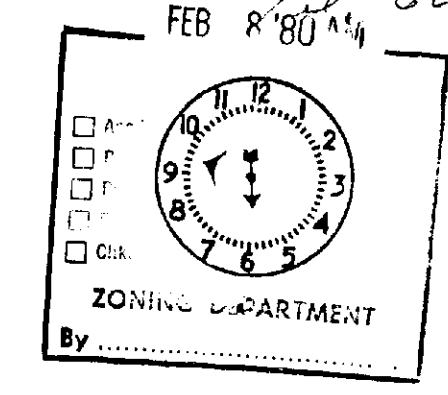
Dear Mr. Hammond

The residents of Lackawanna, Wayne and Engle
Avenues plan to attend the zoning hearing on
Feb 12 at 9:45 AM to protest the zoning request.
Weather permitting we should have a large
turnout of concerned homeowners.

I am acting as spokesman for the group.

Respectfully
Robert E Kelly
8743 Lackawanna Ave
Belt 441834
Tel: 665-8193

cc: J.W. Hessian, III
People's Counsel
for Balt. County



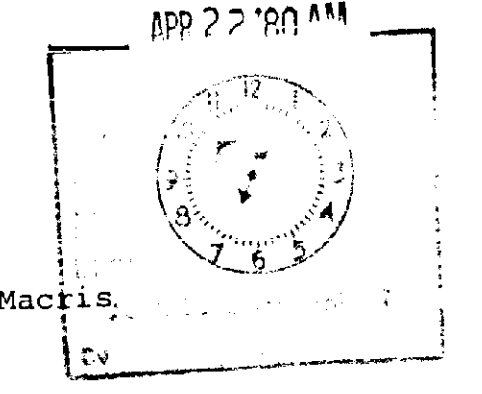
SARANDOS (SAM) MACRIS, et ux

80-904
file

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

April 21, 1980

IN REPLY REFER TO:



Mr. William E. Hammond
Zoning Commissioner for Baltimore County
County Office Building
Towson, Maryland 21204

Re: Application of Sarandos Macris and Eve Macris
Property: Joppa Road at Intersection
with Lackawanna Avenue
Item No. 69
Case No. 80-150-ASPH

Dear Commissioner Hammond:

In response to the correspondence of the People's Counsel
of March 7, 1980, I enclose herewith the opinion of the Court
of Special Appeals of Maryland in Hofmeister, et al vs. The
Frank Realty Company, 35 Md. App. 691, 373 A.2d 273 (1977),
which is apparently the definitive Maryland case relating
specifically to Baltimore County regarding the use of resi-
dentially zoned property for an access route to commercial
property. Section 409.4 of the Zoning Regulations of Baltimore
County grants the Zoning Commissioner the power to issue use
permits for commercial parking in residential zones and the
aforementioned case recognizes that power. The power to
approve an access drive within residentially zoned property
that is contiguous to property zoned commercially is ancillary
to the power granted the Zoning Commissioner pursuant to
Sections 409.4 and 500.7 of the Zoning Regulations and has
long been so recognized in Baltimore County.

As developed at the time of the hearing, the Petitioner,
with the approval of the setback variance requested on the
commercially zoned property, would be able to provide the
necessary parking spaces required by the regulations within
the commercially zoned portion of his property. The approval
of the access drive, as requested, is in the public interest
for the following reasons:

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3333
WILLIAM E. HAMMOND
ZONING COMMISSIONER

January 29, 1980

Julius W. Lichter, Esquire
Steinberg, Lichter, Coleman & Rogers
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Petition for Variance and Special Hearing
NW/C Joppa Road and Lackawanna Avenue
Sam Macris, et ux - Case No. 80-150-ASPH

Dear Sir:

This is to advise you that \$68.25 is due for
advertising and posting of the above-property.

Please make check payable to Baltimore County, Maryland and
remitt to Sandra Jones, Room 113, County Office Building, Towson,
Maryland 21204, before the hearing.

Very truly yours,

William E. Hammond
Zoning Commissioner

WEH:aj

d 150 (1971), of merger
murder case:
murder in the first de-
gree as such but merely a
murder, that the status
classification may be
that the murder was
the perpetration of a
murder robbery an essen-
tial and it follows that
necessarily involve rob-
bery, 196, 224 A.2d 361.

277 A.2d at 258.
sary, however to apply
to in Price. Instead, we
single act of throwing
into a building was the
lying both offenses, one
d at property and the
and hence the offenses
separate so as not to

indicated, robbery and
te and distinct offense
y involves the other
offenses arose from
d not merge, here since
the offenses surely cas-
jeopardy is simply inap-

states representing the
authority (footnote 1,
hat convictions for both
the underlying felony do
obstacle against double
round that murder and
felony are different of-

example, has repeatedly
any murder case, as ex-
h as burglary or robbery
and generally entirely
needed" offense. People
v. 221, 129 N.E.2d 844
People v. Lytton, 257 N.Y.
(1951), where Cardozo, C.
he Court, explained that
felony merely characterizes
ability rather than charac-

ing the identity of the crime. The New
York courts have reasoned that
"[p]roof of these [underlying] crimes, at
most, was only evidence of the inferred
criminal intent and not the element of
criminal intention itself.
Proof of the commission of an underlying
felony in a felony murder case is a condi-
tion of the murder charge conviction but
is not an element of that crime. If it
were an element of the felony murder,
the elements of such a crime would be as
various as the underlying felonies might
be." People v. Tutuska, 19 Misc2d 308,
192 N.Y.S.2d 350, at 357 (1969), affirmed,
11 A.D.2d 906, 205 N.Y.S.2d 1006 (1969).

Similarly, the Supreme Court of Missouri
has recognized that the elements of the
felony murder and the underlying felony
are disjunctive. In discussing the relation-
ship between the offenses, it said:
"With respect to the murders, the under-
lying felony serves only to prove the in-
tent or state of mind necessary to the
murders; and proof of the underlying
felony proves both it and the intent nec-
essary to the murder charges. Proof of
different elements is necessary to each
offense, even though the same evidence
may go to both offenses."
State v. Chambers, 524 S.W.2d 826, 829
(Mo 1975).

Thus, the reasoning and authority of our
states and Maryland law convincingly
demonstrate that, according to the better
reasoned view, felony murder and the un-
derlying felony are separate and distinct
offenses, the elements of which do not over-
lap. The underlying felony is only evidence
of malice and is not actually an element of
the murder. Convictions for both murder
and the perpetration of a robbery and at-
tempted robbery therefore do not violate
the prohibition against placing a defendant
in jeopardy. I would, therefore, af-
firm both judgments.

Julius W. SMITH has authorized me to state
that he concurs in the views expressed in
this dissent.

1. Zoning - 233
Ultimate arbiter of intended meaning
of county zoning law is the local legislative
user of the contested words.
2. Statutes - 210, 211
Legislative intent may be discerned by
examining a statute's title or preamble as
well as its terms.
3. Statutes - 219(1)
Administrative interpretations contem-
poraneous with passage of a statute are
strong evidence on question of its best con-
struction.
4. Zoning - 280
The granting of a "use permit" for
off-street parking in a residential zone is a

HOFMEISTER v. FRANK REALTY CO. Md. 273
Cite as 373 A.2d 273

35 Md App. 691
John HOFMEISTER et al.,
v.
The FRANK REALTY COMPANY.
No. 152.
Court of Special Appeals of Maryland.
May 11, 1977.

Owner of catering establishment located
in business zone applied for special use
permit pursuant to Baltimore county zoning
regulations to use land in residential zone
for off-street parking. The county zoning
commissioner granted the permit and
protestants appealed. The county board of
appeals upheld the grant and appeal was
taken. The Circuit Court, Baltimore County,
John Grason Turnbull, J., upheld the
decision of the county board of appeals and
protestants appealed. The Court of Special
Appeals, Moylan, J., held that granting of
use permit for off-street parking was grant
of a special exception within the delegated
authority of zoning commissioner.
Affirmed.

1. Zoning - 233
Ultimate arbiter of intended meaning
of county zoning law is the local legislative
user of the contested words.
2. Statutes - 210, 211
Legislative intent may be discerned by
examining a statute's title or preamble as
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poraneous with passage of a statute are
strong evidence on question of its best con-
struction.
4. Zoning - 280
The granting of a "use permit" for
off-street parking in a residential zone is a

PETITION FOR VARIANCE AND SPECIAL HEARING

9th District

ZONING: Petition for Variance for rear yard setback and parking and
Special Hearing for an access drive
LOCATION: Northwest corner of Joppa Road and Lackawanna Avenue
DATE & TIME: Tuesday, February 12, 1980 at 9:45 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson,
Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and
Regulations of Baltimore County, will hold a public hearing:

Petition for Variances to permit a rear yard setback of
0 feet in lieu of the required 30 feet and to allow 13
parking spaces in lieu of the required 25 spaces and
Special Hearing under Section 500.7 of the Zoning Regulations
of Baltimore County, to determine whether or not the Zoning
Commissioner and/or Deputy Zoning Commissioner should approve
an access drive within a parcel of property zoned D.R. 5.5

The Zoning Regulation to be excepted as follows:

Section 238.2 - side and rear yard setbacks
Section 409.2 - Parking space

All that parcel of land in the Ninth District of Baltimore County

Being the property of Sarandos (Sam) Macris, et ux, as shown on plat plan filed with
the Zoning Department

Hearing Date: Tuesday, February 12, 1980 at 9:45 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson,
Maryland

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

274 Md. 373 ATLANTIC REPORTER, 24 SERIES

variety of "special exception" within con-
templation of a Baltimore County ordinance
delegating to the county zoning commis-
sioner the power to issue special exceptions.
Code 1957, art. 25A, § 5(u); Acts 1941, c.
247.
See publication Words and Phrases
for other judicial constructions and
definitions.

William F. C. Marlow, Jr., Towson, with
whom was F. Vernon Booser, Towson, on
the brief, for appellants.
E. Stephen Derby, Baltimore, with whom
were Piper & Marbury, Baltimore, and No-
lan, Plumbhoff & Williams, Towson, on
the brief, for appellee.

Argued before GILBERT, C. J., and
MOYLAN and LOWE, JJ.
MOYLAN, Judge.

If the imprecise use of language plagues
the law generally, it falls upon the head of
the zoning law with peculiar vengeance.
The root problem giving rise to the present
appeal was the failure of the lawmaking
authorities of Baltimore County to distin-
guish clearly between the Genus "Special
Exceptions" and the Species "Special Use
Permits." The phrase was used in one critical
context, at least, with a broad, generic
meaning; the same phrase was used on
other occasions with a more limited and
specific meaning; the lawmaking authority
never pinpointed which meaning it had in
mind on a particular occasion nor did it
even seem aware of the potential semantic
problem lurking within its linguistic imprecision.

1. The more exact residential zoning classification
does not appear in the record.
2. The permit was issued subject to the follow-
ing conditions:
1. Compact screening, a minimum of six (6)
feet in height, be constructed around the en-
tire subject property, excluding entrances
and exits, and that portion of the subject
property which is immediately adjacent to
the Overlea Hall catering establishment.
2. Any lighting that is constructed on the
subject property is to be a maximum of six
(6) feet in height.

Although the problem before us for resolu-
tion is exclusively one of law, the factual
background must be set. The appellee,
Frank Realty Company (Frank), owns Over-
lea Hall, which is a catering establish-
ment in Baltimore County. It is located on
Belair Road, a major thoroughfare in a
business district. Overlea Hall does not
have its own parking lot, but it is situated
next to a Union Trust Bank, which does.
The customers of Overlea Hall park either
on the bank lot or on the surrounding
streets. In 1970, 1972 and 1973, Frank ac-
quired three properties, adjacent to and in
the rear of Overlea Hall, forming one in-
tegrated tract and having frontage on two
side streets. On the tract, Frank desired to
build a parking lot for 84 vehicles.
Pursuant to the Baltimore County Zoning
Regulations (1975 Ed.) (BCZR), Overlea
Hall was zoned Business Local (BL) in a
Commercial Community Core (CCC) Dis-
trict. Catering is a use permitted in such a
zone. The land on which the parking lot
was to be built, however, was zoned Resi-
dential. Off-street parking is not a use
permitted as of right in a residential zone,
but is a permitted use if a Special Use
Permit is applied for and issued pursuant to
§ 409.4 of the BCZR.

Over the protestations of the appellants,
who are residents of the affected area, the
Baltimore County Zoning Commissioner on
June 4, 1974, granted Frank a Special Use
Permit for off-street parking in a residen-
tial zone. Appellants, joined by the Bal-
timore County Deputy People's Counsel, ap-
pealed to the County Board of Appeals.
3. Only ingress be afforded from the en-
trance on Overlea Avenue.
4. The People's Counsel is appointed by the Bal-
timore County Executive and is charged with
representing the public interest before the Zon-
ing Commissioner, the County Board of Ap-
peals, or the courts in any matter involving the
Baltimore County Zoning Regulations. Bal-
timore County Charter, § 524 (b); Baltimore
County Code (1968 ed., 1975-75 Cum Supp.)

who, on July 29, 1974, the County Board of Appeals, the requirements of the BCZR had that the Zoning Commissioner to issue Special Use Permits, an appeal to more County Circuit Judge John Grason Turnbull of the Court of Special Appeals. That decision of the County Board of Appeals had been appealed to the Court of Special Appeals. The appellants' action of the County Board of Appeals was "arbitrary and capricious" and was not supported. The sufficiency of the merits of the petition was not required to be decided. The appellants' action of the County Board of Appeals was "arbitrary and capricious" and was not supported. The sufficiency of the merits of the petition was not required to be decided. The appellants' action of the County Board of Appeals was "arbitrary and capricious" and was not supported. The sufficiency of the merits of the petition was not required to be decided.

4. An appeal to the County Board of Appeals authorized in Md.Anno.Code, Art. 25A § 50 (1975 Cum.Supp.) and § 501.2 of the BCZ
5. To be more fully discussed hereinafter.

We conclude that the question is not simple and clearcut. A "Use Permit" bo

6. Appeals to the Circuit Court and then to the Court of Special Appeals are authorized by Md. Anno.Code, Art. 25A § 5(u) and § 501.4 of the BCZR. See *Levy v. Seven Slade, Inc.*, 2 Md. 145, 149, 198 A.2d 267, 269 (1964).

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recognized that the same principle is applied even when the labels may vary.

82 Am.Jur.2d, *Zoning and Planning*, § 10,000, note 1.
C. "Special Permits or Exceptions," § 10,000, note 1.

its power limited by hearing requirements and standards."

III. Z Ratnkopi, *The Law of Zanning and Zanning*, Ch. 54, § 1, n. 1, uses both the te

be said to be a
or 'special use'

accurate. The

The term ["special exception"] might well be said to be a misnomer. "Special uses

or 'special use permits' would be more accurate. The theory is that certain uses

This was particularly true of that instance of "Special Exceptions" which came to be

known as the "Use Permit" for off-street parking in a residential zone.

T
ther

Year	Percentage of Population Aged 65 and Over
1950	7%
1960	9%
1970	11%
1980	13%
1990	15%
2000	16%

he process of differentiation went further in 1955 when the Baltimore County

We do not agree that § 502 need be complied with in order to obtain a use permit for off-

lar, individual characteristics which make it necessary, in the public interest, to specify regulations in greater detail than

street parking which is governed exclusively by § 409.4.

County. The protest
that under the provis
RC30

once denied, could not
until the expiration

Md. 279

Baltimore County Board of Appeals, 218 Md. 351, 146 A.2d 875, in 1958. There, a requested permit for off-street parking was initially denied for what turned out to be an erroneous reason. The request was promptly resubmitted and was granted by the Board of Zoning Appeals and the grant was affirmed by the Circuit Court for Baltimore County. The protesters then claimed — that under the provisions of § 500.12 of the BCZR, a request for a Special Exception once denied, could not be entertained again until the expiration of 18 months. In the

There was now established, at least in terms of surface appearance, a seeming unbridgeable dichotomy between a "Special Use Permit" for off-street parking in residential zone under § 409.4 of the BCZR and a "Special Exception" under §§ 500.1 and 502 of the BCZR. This was to become the appellants' minor premise: A "Use Permit" is not a "Special Exception." The major premise was established two years later with the passage by the Baltimore County Council of Bill No. 80, limiting

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question: The disjunct was only seen in two species within the same genus and not between a species and its parent genus. Indeed, we think the Court of Appeals was still giving the term its specific meaning when in *Jacobs v. County Board of Appeals for Baltimore County*, 234 Md. 242, 198 A 2d 900, it said in 1964, at 234 Md. 248, 198 A 2d at 903:

For that purpose, we must look to the meaning of the term "B" as employed in the major premise, which is to say we must look to the meaning of the phrase "Special Exceptions" as used by the Baltimore County Council in repealing and reenacting the

grant Use P.
It is well est.
may be disc.
title or pre:
Board of Co.
274 Md. 193.
Transit Adm.

the Council sought to repeal any of the authority of the Zoning Commissioner to grant Use Permits for off-street parking. It is well established that legislative intent may be discerned by examining a statute's title or preamble as well as its terms. *Board of County Commissioners v. Colgan*, 274 Md. 193, 200-201, 334 A.2d 89; *Mass Transit Adm. v. Balto. Co. Rev. Authority*.

where the language of a statute is susceptible of two constructions, the long-continued and unvarying construction applied by administrative officials is a strong persuasive influence in determining the judicial construction of the statute.

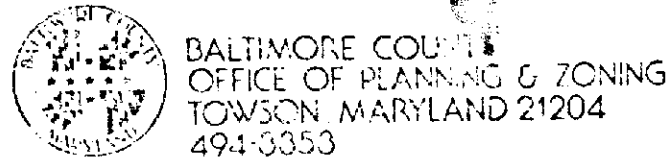
8

[4] It is beyond cavil that a "Use Permit" for off-street parking in a residential zone under the provisions of § 409.4 falls within this broad "Special Exception." The "Permit" is indisputably a "Special Exception." It is equally clear that the Board's

over his foot, the Superior Court judge in Baltimore County, James W. Loebe, Jr., ordered judgment for plaintiffs. The court also appealed. The Court of Appeals, Judge Lowell J. Wee, held that (1) evidence was sufficient finding as to liability; (2) damages were adequate; (3) evidence presented was sufficient as to disability; (4) evidence of lost future earnings was sufficient to support economic loss.

Court of Baltimore. Murphy, J., rendered the opinion for the court and defendant. The Special Appeals Court, in a unanimous opinion, affirmed the judgment. The evidence supported the jury's verdict. The instructions were proper. The jury's verdict was supported by the evidence. The evidence of present disability was not necessary to the jury's verdict. (5)

100



WILLIAM E. HAMMOND
Zoning Commissioner

June 6, 1980

Julius W. Lichter, Esquire
Steinberg, Lichter, Coleman & Rogers
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Petitions for Variances and Special
Hearing
NW corner of Joppa Road and Lackawanna Avenue - 9th Election District
Sarandos Macris, et ux - Petitioners
NO. 80-150-ASPH (Item No. 69)

Dear Mr. Lichter:

I have this date passed my Order in the above referenced matter in accordance with the attached.

Very truly yours,

WILLIAM E. HAMMOND
Zoning Commissioner

WEH/srl

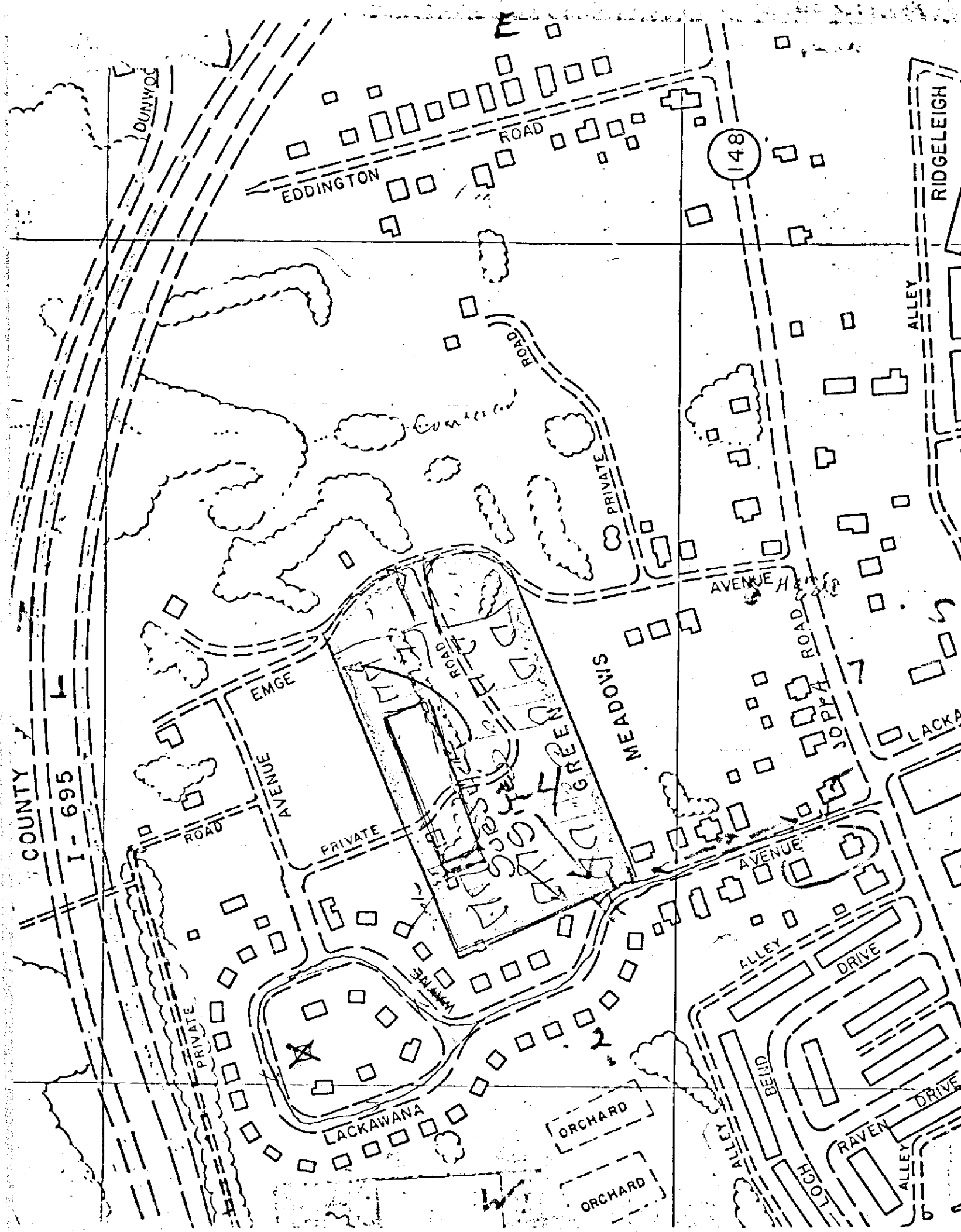
Attachments

cc: Mr. Russell Kness
8745 Lackawanna Avenue
Baltimore, Maryland 21234

Mr. Robert E. Kelly
8743 Lackawanna Avenue
Baltimore, Maryland 21234

Mr. Andrew D. Martino
9724 Lackawanna Avenue
Baltimore, Maryland 21234

John W. Hessian, III, Esquire
People's Counsel



COLUMBIA OFFICE
WALTER PARK
Registered Surveyor
PHONE 730-9060

TOWSON OFFICE
HUDKINS ASSOCIATES, INC.
Engineers, Surveyors and
Landscape Architects
200 EAST JOPPA ROAD
ROOM 101, SHELL BUILDING
TOWSON, MARYLAND 21204
PHONE: 828-9060

BEL AIR OFFICE
L. GERALD WOLFF
Landscape Architect
PHONE 838 0888

September 6, 1979

DESCRIPTION TO ACCOMPANY APPLICATION FOR REAR YARD VARIANCE:

Beginning for the same at a point on the west side of Lackawanna Avenue (40 feet wide) said point being distant from the point formed by the intersection of the center of Lackawanna Avenue with the center of Joppa Road the two following courses and distances viz: (1) North 20 degrees 55 minutes 45 seconds West 61 feet and (2) South 69 degrees 04 minutes 15 seconds West 20 feet thence North 20 degrees 55 minutes 45 seconds West 152 feet thence South 69 degrees 04 minutes 15 seconds West 84.03 feet thence South 26 degrees 22 minutes 45 seconds East 179 feet thence North 68 degrees 30 minutes 20 seconds East 42.17 feet thence North 23 degrees 46 minutes 17 seconds East 35.53 feet to the place of beginning.

Containing 0.31 Acres of land more or less.



Malcolm E. Hudkins
Registered Surveyor #5095

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE February 6, 1980 ACCOUNT 01-662
AMOUNT \$25.00
RECEIVED FROM Julius W. Lichter, Esquire
FOR Advertising and Posting of Case No. 80-150-ASPH
VALIDATION OF SIGNATURE OF CASHIER

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 331-0600

December 11, 1979

IN REPLY REFER TO:

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD F. ROGERS

Mr. Nicholas B. Commodari
Baltimore County
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Re: Application of Sarandos and Eva Macris
Property: Joppa Road at intersection
with Lackawanna Avenue, Item No. 69

Dear Mr. Commodari:

As per our several conversations regarding the above mentioned item, I would appreciate your obtaining the comments necessary for scheduling the above matter for a hearing at the earliest possible date. Approximately three months have passed since the petition was filed and a date has not been set as of this time.

Prior to the time of the hearing, I will review the matter of parking requirements with my client and will advise you accordingly. Meanwhile, I feel that a hearing should be set and that all open issues should be promptly resolved.

Very truly yours,

Julius W. Lichter

JWL:ls

cc: Mr. and Mrs. Sarandos Macris

PETITION MAPPING PROGRESS SHEET

FUNCTION	Well Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <u>W. E. H.</u>	Revised Plans: <u>Change in outline or description</u> Yes <input type="checkbox"/> No <input type="checkbox"/>									
Previous case: <u>412, 712, 128, 129, 130, 131</u>	Map # <u> </u>									

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received this 17 day of January, 1980.

Filing Fee \$ Received: Check

Cash

Other

William E. Hammond, Zoning Commissioner

Petitioner Submitted by

Petitioner's Attorney Reviewed by

*This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.

PETITION FOR VARIANCE AND SPECIAL HEARING

9th District
Zoning: Petition for Variance for rear yard setback and parking and Special Hearing for an access drive.
Location: Northwest corner of Joppa Road and Lackawanna Avenue.

Date & Time:
TUESDAY, FEBRUARY 12, 1980
AT 9:45 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing.

Petition for Variances to permit a rear yard setback of 0 feet in lieu of the required 30 feet and to allow 13 parking spaces in lieu of the required 25 spaces and Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an access drive within a parcel of property zoned D.1.

The Zoning Regulation to be excepted as follows:

Section 238.2 - side and rear yard setbacks.
Section 409.2 - Parking space.

All that parcel of land in the Ninth District of Baltimore County Beginning for the same at a point on the west side of Lackawanna Avenue 40 feet wide said point being distant from the point formed by the intersection of the center of Lackawanna Avenue with the center of Joppa road and two following courses and distances viz: (1) North 20 degrees 55 minutes 45 seconds West 61 feet and (2) South 69 degrees 04 minutes 15 seconds West 20 feet thence South 69 degrees 04 minutes 15 seconds West 84.03 feet thence South 26 degrees 22 minutes 45 seconds East 179 feet thence North 68 degrees 30 minutes 20 seconds East 42.17 feet thence North 23 degrees 46 minutes 17 seconds East 35.53 feet to the place of beginning. Containing 0.31 acres of land more or less.

Being the property of Sarandos (Sam) Macris, et ux, as shown on plan filed with the Zoning Department.
Hearing Date: Tuesday, February 12, 1980, at 9:45 a.m.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.
BY ORDER OF
WILLIAM E. HAMMOND
Zoning Commissioner
of Baltimore County

THE ESSEX TIMES

Bel Air, Md., January 24, 1980

This is to Certify, That the annexed

Petition

was inserted in THE ESSEX TIMES, a newspaper printed and published in Harford County, once in each

of successive

weeks before the 12th day of

February, 1980

Opportunity Publisher.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9 Date of Posting 1/29/80

Posted for: Julius W. Lichter, Esquire

Petitioner: Sarandos (Sam) Macris, et ux

Location of property: 111 W. Chesapeake Avenue, Towson, Md.

Location of Signs: on property, facing Joppa Road

Remarks:

Posted by: William E. Hammond Signature

Date of return: 3/1/80